

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

KIARA SMITH  
ADC #107225

PLAINTIFF

V.

3:07CV00050 BSM/JTR

LEROY MEADOWS, Sheriff,  
Mississippi County, et al.

DEFENDANTS

**ORDER**

Plaintiff, Kiara Smith, has commenced this *pro se* § 1983 action against Defendants. On November 12, 2007, Plaintiff filed a pleading that was docketed as “Plaintiff’s Addendum to his Response to Defendants’ Motion for Summary Judgment.” *See* docket entry #50. After careful review, the Court concludes that it is more properly characterized as a Motion for Leave to File a Fourth Amended Complaint. The Court will instruct the Clerk to redocket the pleading accordingly.

In April, May, and June of 2007, Plaintiff filed a Complaint and three Amended Complaints, alleging that Defendants: (1) denied him adequate medical and psychiatric care; (2) infringed his right to access the courts; (3) failed to protect him from being attacked by another inmate; (4) forced him to reside in unsafe and unsanitary living conditions; and (5) committed the state intentional tort of outrage. *See* docket entries #2, #6, #7, and #13.

The discovery deadline was September 25, 2007, and the dispositive motion deadline was November 15, 2007. *See* docket entries #20 and #41. Defendants timely filed their summary judgment papers on November 15, 2007. *See* docket entries #43, #44, and #45. On November 27,

2007, Plaintiff filed his Response to Defendants' summary judgment papers, as well as this Motion requesting permission to file a Fourth Amended Complaint. *See* docket entries #49, #50, and #51. Specifically, Plaintiff wishes to amend his Complaint to include a claim that Defendants also engaged in a civil conspiracy when they committed all of the previously alleged wrongs. *See* docket entry #50.

A plaintiff must obtain the Court's permission prior to amending a complaint more than once. *See* Fed. R. Civ. P. 15(a)(2). In this respect, the Eighth Circuit has explained that leave to amend may be denied for reasons such as: (1) "undue delay, bad faith, or dilatory motive"; (2) "repeated failure to cure deficiencies by amendments previously allowed"; (3) "undue prejudice to the non-moving party"; or (4) "futility of the amendment." *Doe v. Cassel*, 403 F.3d 986, 990-91 (8th Cir. 2005).

Plaintiff has not come forward with any explanation of why he did not include his conspiracy claim in his Complaint or three subsequently filed Amended Complaints. Similarly, he has failed to explain why he waited until after the discovery and dispositive motion deadlines to seek permission to add this claim. Finally, the Court concludes that it would be unduly prejudicial to the Defendants to allow Plaintiff to add this new claim after they have filed their summary judgment papers.

IT IS THEREFORE ORDERED THAT:

1. The Clerk is directed to redocket Plaintiff's "Addendum to his Response to Defendants' Motion for Summary Judgment" (docket entry #50) as Plaintiff's Motion for Leave to File a Fourth Amended Complaint.

2. Plaintiff's Motion for Leave to File a Fourth Amended Complaint (docket entry #50)  
is DENIED.

Dated this 24<sup>th</sup> day of April, 2008.

  
UNITED STATES MAGISTRATE JUDGE